

**ASSEMBLY BILL**

**No. 1960**

**Introduced by Assembly Member Takasugi**

February 17, 1998

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An act to amend Section 69.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1960, as introduced, Takasugi. Property taxation: base year value.

Existing law permits persons over 55 years of age and persons who are severely and permanently disabled, as specified, to transfer the base year value of their home to a replacement home in the same county. Existing law also authorizes the transfer of the base year value of a person's home in one county to a replacement home in another county under the same circumstances if the transfer is provided for in an ordinance adopted by the board of supervisors of the county in which the replacement home is located.

This bill would authorize the transfer of the base year value of a person's home in one county to a replacement home in the same or another county for the same categories of eligible homeowners without regard to the adoption of an ordinance by a county board of supervisors permitting intercounty transfers of base year value.

This bill would provide that it would become operative only if ACA \_\_\_\_ of the 1997–98 Regular Session of the Legislature is adopted and approved by the people of the State of California.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 69.5 of the Revenue and  
2 Taxation Code is amended to read:  
3 69.5. (a) ~~(1)~~—Notwithstanding any other provision of  
4 law, pursuant to subdivision (a) of Section 2 of Article  
5 XIII A of the California Constitution, any person over the  
6 age of 55 years, or any severely and permanently disabled  
7 person, who resides in property that is eligible for the  
8 homeowner's exemption under subdivision (k) of Section  
9 3 of Article XIII of the California Constitution and Section  
10 218 may transfer, subject to the conditions and limitations  
11 provided in this section, the base year value of that  
12 property to any replacement dwelling of equal or lesser  
13 value that is located within the same *or another* county  
14 and is purchased or newly constructed by that person as  
15 his or her principal residence within two years of the sale  
16 by that person of the original property, provided that the  
17 base year value of the original property shall not be  
18 transferred to the replacement dwelling until the original  
19 property is sold.  
20 ~~(2) Notwithstanding the limitation in paragraph (1)~~  
21 ~~requiring that the original property and the replacement~~  
22 ~~dwelling be located in the same county, this limitation~~  
23 ~~shall not apply in any county in which the county board~~  
24 ~~of supervisors, after consultation with local affected~~

~~1 agencies within the boundaries of the county, adopts an  
2 ordinance making the provisions of paragraph (1) also  
3 applicable to situations in which replacement dwellings  
4 are located in that county and the original properties are  
5 located in another county within this state. The  
6 authorization contained in this paragraph shall be  
7 applicable in a county only if the ordinance adopted by  
8 the board of supervisors complies with all of the following  
9 requirements:~~

~~10 (A) It is adopted only after consultation between the  
11 board of supervisors and all other local affected agencies  
12 within the county's boundaries.~~

~~13 (B) It requires that all claims for transfers of base year  
14 value from original property located in another county be  
15 granted if the claims meet the applicable requirements  
16 of both subdivision (a) of Section 2 of Article XIII A of the  
17 California Constitution and this section.~~

~~18 (C) It requires that all base year valuations of original  
19 property located in another county and determined by its  
20 assessor be accepted in connection with the granting of  
21 claims for transfers of base year value.~~

~~22 (D) The ordinance provides that its provisions shall  
23 remain operative for a period of not less than five years.~~

~~24 (E) The ordinance specifies the date on and after  
25 which its provisions shall be applicable. However, the  
26 date specified shall not be earlier than November 9, 1988.  
27 The specified applicable date may be a date earlier than  
28 the date the county adopts the ordinance.~~

~~29 (b) In addition to meeting the requirements of  
30 subdivision (a), any person claiming the property tax  
31 relief provided by this section shall be eligible for that  
32 relief only if the following conditions are met:~~

~~33 (1) The claimant is an owner and a resident of the  
34 original property either at the time of its sale or within  
35 two years of the purchase or new construction of the  
36 replacement dwelling.~~

~~37 (2) The original property is eligible for the  
38 homeowner's exemption, as the result of the claimant's  
39 ownership and occupation of the property as his or her  
40 principal residence, either at the time of its sale or within~~

1 two years of the purchase or new construction of the  
2 replacement dwelling.

3 (3) At the time of the sale of the original property, the  
4 claimant or the claimant's spouse who resides with the  
5 claimant is at least 55 years of age, or is severely and  
6 permanently disabled.

7 (4) At the time of claiming the property tax relief  
8 provided by subdivision (a), the claimant is an owner of  
9 a replacement dwelling and occupies it as his or her  
10 principal place of residence and, as a result thereof, the  
11 property is currently eligible for the homeowner's  
12 exemption or would be eligible for the exemption except  
13 that the property is already receiving the exemption  
14 because of an exemption claim filed by the previous  
15 owner.

16 (5) The original property of the claimant is sold by him  
17 or her within two years of the purchase or new  
18 construction of the replacement dwelling. For purposes  
19 of this paragraph, the purchase or new construction of the  
20 replacement dwelling includes the purchase of that  
21 portion of land on which the replacement building,  
22 structure, or other shelter constituting a place of abode of  
23 the claimant will be situated and that, pursuant to  
24 paragraph (3) of subdivision (g), constitutes a part of the  
25 replacement dwelling.

26 ~~(6) The replacement dwelling, including that portion~~  
27 ~~of land on which it is situated that is specified in~~  
28 ~~paragraph (5), is located entirely within the same county~~  
29 ~~as the claimant's original property.~~

30 ~~(7)~~ The claimant has not previously been granted, as  
31 a claimant, the property tax relief provided by this  
32 section, except that this paragraph shall not apply to any  
33 person who becomes severely and permanently disabled  
34 subsequent to being granted, as a claimant, the property  
35 tax relief provided by this section for any person over the  
36 age of 55 years. In order to prevent duplication of claims  
37 under this section within this state, county assessors shall  
38 report quarterly to the State Board of Equalization that  
39 information from claims filed in accordance with  
40 subdivision (f) and from county records as is specified by

1 the board necessary to identify fully all claims under this  
2 section allowed by assessors and all claimants who have  
3 thereby received relief. The board may specify that the  
4 information include all or a part of the names and social  
5 security numbers of claimants and their spouses and the  
6 identity and location of the replacement dwelling to  
7 which the claim applies. The information may be  
8 required in the form of data processing media or other  
9 media and in a format that is compatible with the  
10 recordkeeping processes of the counties and the auditing  
11 procedures of the state.

12 (c) The property tax relief provided by this section  
13 shall be available if the original property or the  
14 replacement dwelling, or both, of the claimant, includes,  
15 but is not limited to, either of the following:

16 (1) A unit or lot within a cooperative housing  
17 corporation, a community apartment project, a  
18 condominium project, or a planned unit development. If  
19 the unit or lot constitutes the original property of the  
20 claimant, the assessor shall transfer to the claimant's  
21 replacement dwelling only the base year value of the  
22 claimant's unit or lot and his or her share in any common  
23 area reserved as an appurtenance of that unit or lot. If the  
24 unit or lot constitutes the replacement dwelling of the  
25 claimant, the assessor shall transfer the base year value of  
26 the claimant's original property only to the unit or lot of  
27 the claimant and any share of the claimant in any  
28 common area reserved as an appurtenance of that unit or  
29 lot.

30 (2) A mobilehome or a mobilehome and any land  
31 owned by the claimant on which the mobilehome is  
32 situated. If the mobilehome or the mobilehome and the  
33 land on which it is situated constitutes the claimant's  
34 original property, the assessor shall transfer to the  
35 claimant's replacement dwelling either the base year  
36 value of the mobilehome or the base year value of the  
37 mobilehome and the land on which it is situated, as  
38 appropriate. No transfer of base year value shall be made  
39 by the assessor of that portion of land that does not  
40 constitute a part of the original property, as provided in

1 paragraph (4) of subdivision (g). If the mobilehome or  
2 the mobilehome and the land on which it is situated  
3 constitutes the claimant's replacement dwelling, the  
4 assessor shall transfer the base year value of the claimant's  
5 original property either to the mobilehome or the  
6 mobilehome and the land on which it is situated, as  
7 appropriate. No transfer of base year value shall be made  
8 by the assessor to that portion of land that does not  
9 constitute a part of the replacement dwelling, as  
10 provided in paragraph (3) of subdivision (g).

11 This subdivision shall be subject to the limitations  
12 specified in subdivision (d).

13 (d) The property tax relief provided by this section  
14 shall be available to a claimant who is the coowner of  
15 original property, as a joint tenant, a tenant in common,  
16 or a community property owner, subject to the following  
17 limitations:

18 (1) If a single replacement dwelling is purchased or  
19 newly constructed by all of the coowners and each  
20 coowner retains an interest in the replacement dwelling,  
21 the claimant shall be eligible under this section whether  
22 or not any or all of the remaining coowners would  
23 otherwise be eligible claimants.

24 (2) If two or more replacement dwellings are  
25 separately purchased or newly constructed by two or  
26 more coowners and more than one coowner would  
27 otherwise be an eligible claimant, only one coowner shall  
28 be eligible under this section. These coowners shall  
29 determine by mutual agreement which one of them shall  
30 be deemed eligible.

31 (3) If two or more replacement dwellings are  
32 separately purchased or newly constructed by two  
33 coowners who held the original property as community  
34 property, only the coowner who has attained the age of  
35 55 years, or is severely and permanently disabled, shall be  
36 eligible under this section. If both spouses are over 55  
37 years of age, they shall determine by mutual agreement  
38 which one of them is eligible.

39 In the case of coowners whose original property is a  
40 multiunit dwelling, the limitations imposed by

1 paragraphs (2) and (3) shall only apply to coowners who  
2 occupied the same dwelling unit within the original  
3 property at the time specified in paragraph (2) of  
4 subdivision (b).

5 (e) Upon the sale of original property, the assessor  
6 shall determine a new base year value for that property  
7 in accordance with subdivision (a) of Section 2 of Article  
8 XIII A of the California Constitution and Section 110.1,  
9 whether or not a replacement dwelling is subsequently  
10 purchased or newly constructed by the former owner or  
11 owners of the original property.

12 This section shall not apply unless the transfer of the  
13 original property is a change in ownership that either (1)  
14 subjects that property to reappraisal at its current fair  
15 market value in accordance with Section 110.1 or 5803 or  
16 (2) results in a base year value determined in accordance  
17 with this section, Section 69, or Section 69.3 because the  
18 property qualifies under this section, Section 69, or  
19 Section 69.3 as a replacement dwelling or property.

20 (f) A claimant shall not be eligible for the property tax  
21 relief provided by this section unless the claimant  
22 provides to the assessor, on a form that the assessor shall  
23 make available upon request, the following information:

24 (1) The name and social security number of each  
25 claimant and of any spouse of the claimant who was a  
26 record owner of the original property at the time of its  
27 sale or is a record owner of the replacement dwelling.

28 (2) Proof that the claimant or the claimant's spouse  
29 who resided on the original property with the claimant  
30 was, at the time of its sale, at least 55 years of age, or  
31 severely and permanently disabled. Proof of severe and  
32 permanent disability shall be considered a certification,  
33 signed by a licensed physician and surgeon of appropriate  
34 specialty, attesting to the claimant's severely and  
35 permanently disabled condition. In the absence of  
36 available proof that a person is over 55 years of age, the  
37 claimant shall certify under penalty of perjury that the  
38 age requirement is met. In the case of a severely and  
39 permanently disabled claimant either of the following  
40 shall be submitted:

1 (A) A certification, signed by a licensed physician or  
2 surgeon of appropriate specialty that identifies specific  
3 reasons why the disability necessitates a move to the  
4 replacement dwelling and the disability-related  
5 requirements, including any locational requirements, of  
6 a replacement dwelling. The claimant shall substantiate  
7 that the replacement dwelling meets disability-related  
8 requirements so identified and that the primary reason  
9 for the move to the replacement dwelling is to satisfy  
10 those requirements. If the claimant, or the claimant's  
11 spouse or guardian, so declares under penalty of perjury,  
12 it shall be rebuttably presumed that the primary purpose  
13 of the move to the replacement dwelling is to satisfy  
14 identified disability-related requirements.

15 (B) The claimant's substantiation that the primary  
16 purpose of the move to the replacement dwelling is to  
17 alleviate financial burdens caused by the disability. If the  
18 claimant, or the claimant's spouse or guardian, so declares  
19 under penalty of perjury, it shall be rebuttably presumed  
20 that the primary purpose of the move is to alleviate the  
21 financial burdens caused by the disability.

22 (3) The address and, if known, the assessor's parcel  
23 number of the original property.

24 (4) The date of the claimant's sale of the original  
25 property and the date of the claimant's purchase or new  
26 construction of a replacement dwelling.

27 (5) A statement by the claimant that he or she  
28 occupied the replacement dwelling as his or her principal  
29 place of residence on the date of the filing of his or her  
30 claim.

31 The State Board of Equalization shall design the form  
32 for claiming eligibility.

33 Any claim under this section shall be filed within three  
34 years of the date the replacement dwelling was  
35 purchased or the new construction of the replacement  
36 dwelling was completed.

37 (g) For purposes of this section:

38 (1) "Person over the age of 55 years" means any  
39 person or the spouse of any person who has attained the



1 age of 55 years or older at the time of the sale of original  
2 property.

3 (2) "Base year value of the original property" means  
4 its base year value, as determined in accordance with  
5 Section 110.1, with the adjustments permitted by  
6 subdivision (b) of Section 2 of Article XIII A of the  
7 California Constitution and subdivision (f) of Section  
8 110.1, determined as of the date immediately prior to the  
9 date that the original property is sold by the claimant.

10 If the replacement dwelling is purchased or newly  
11 constructed after the transfer of the original property,  
12 "base year value of the original property" also includes  
13 any inflation factor adjustments permitted by subdivision  
14 (f) of Section 110.1 for the period subsequent to the sale  
15 of the original property. The base year or years used to  
16 compute the "base year value of the original property"  
17 shall be deemed to be the base year or years of any  
18 property to which that base year value is transferred  
19 pursuant to this section.

20 (3) "Replacement dwelling" means a building,  
21 structure, or other shelter constituting a place of abode,  
22 whether real property or personal property, that is  
23 owned and occupied by a claimant as his or her principal  
24 place of residence, and any land owned by the claimant  
25 on which the building, structure, or other shelter is  
26 situated. For purposes of this paragraph, land constituting  
27 a part of a replacement dwelling includes only that area  
28 of reasonable size that is used as a site for a residence, and  
29 "land owned by the claimant" includes land for which the  
30 claimant either holds a leasehold interest described in  
31 subdivision (c) of Section 61 or a land purchase contract.  
32 Each unit of a multiunit dwelling shall be considered a  
33 separate replacement dwelling. For purposes of this  
34 paragraph, "area of reasonable size that is used as a site  
35 for a residence" includes all land if any nonresidential  
36 uses of the property are only incidental to the use of the  
37 property as a residential site.

38 (4) "Original property" means a building, structure,  
39 or other shelter constituting a place of abode, whether  
40 real property or personal property, that is owned and

1 occupied by a claimant as his or her principal place of  
2 residence, and any land owned by the claimant on which  
3 the building, structure, or other shelter is situated. For  
4 purposes of this paragraph, land constituting a part of  
5 original property includes only that area of reasonable  
6 size that is used as a site for a residence, and “land owned  
7 by the claimant” includes land for which the claimant  
8 either holds a leasehold interest described in subdivision  
9 (c) of Section 61 or a land purchase contract. Each unit  
10 of a multiunit dwelling shall be considered a separate  
11 original property. For purposes of this paragraph, “area  
12 of reasonable size that is used as a site for a residence”  
13 includes all land if any nonresidential uses of the property  
14 are only incidental to the use of the property as a  
15 residential site.

16 (5) “Equal or lesser value” means that the amount of  
17 the full cash value of a replacement dwelling does not  
18 exceed one of the following:

19 (A) One hundred percent of the amount of the full  
20 cash value of the original property if the replacement  
21 dwelling is purchased or newly constructed prior to the  
22 date of the sale of the original property.

23 (B) One hundred and five percent of the amount of  
24 the full cash value of the original property if the  
25 replacement dwelling is purchased or newly constructed  
26 within the first year following the date of the sale of the  
27 original property.

28 (C) One hundred and ten percent of the amount of  
29 the full cash value of the original property if the  
30 replacement dwelling is purchased or newly constructed  
31 within the second year following the date of the sale of the  
32 original property.

33 For the purposes of this paragraph, except as otherwise  
34 provided in paragraph (4) of subdivision (h), if the  
35 replacement dwelling is, in part, purchased and, in part,  
36 newly constructed, the date the “replacement dwelling  
37 is purchased or newly constructed” is the date of  
38 purchase or the date of completion of construction,  
39 whichever is later.



(6) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) “Sale” means any change in ownership of the original property for consideration.

(9) “Claimant” means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph ~~(7)~~ (6) of subdivision (b) has been met.

(10) “Property that is eligible for the homeowner’s exemption” includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) “Person” means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) “Severely and permanently disabled” means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

1 (B) The date the replacement dwelling is purchased.

2 (C) The date the new construction of the replacement  
3 dwelling is completed.

4 (2) Any taxes that were levied on the replacement  
5 dwelling prior to the filing of the claim on the basis of the  
6 replacement dwelling's new base year value, and any  
7 allowable annual adjustments thereto, shall be canceled  
8 or refunded to the claimant to the extent that the taxes  
9 exceed the amount that would be due when determined  
10 on the basis of the adjusted new base year value.

11 (3) Notwithstanding Section 75.10, Chapter 3.5  
12 (commencing with Section 75) shall be utilized for  
13 purposes of implementing this subdivision, including  
14 adjustments of the new base year value of replacement  
15 dwellings acquired prior to the sale of the original  
16 property.

17 (4) In the case where a claim under this section has  
18 been timely filed and granted, and new construction is  
19 performed upon the replacement dwelling subsequent to  
20 the transfer of base year value, the property tax relief  
21 provided by this section also shall apply to the  
22 replacement dwelling, as improved, and thus there shall  
23 be no reassessment upon completion of the new  
24 construction if both of the following conditions are met:

25 (A) The new construction is completed within two  
26 years of the date of the sale of the original property and  
27 the owner notifies the assessor in writing of completion  
28 of the new construction within 30 days after completion.

29 (B) The fair market value of the new construction on  
30 the date of completion, plus the full cash value of the  
31 replacement dwelling on the date of acquisition, is not  
32 more than the full cash value of the original property as  
33 determined pursuant to paragraph (7) of subdivision (g)  
34 for purposes of granting the original claim.

35 (i) Any claimant may rescind a claim for the property  
36 tax relief provided by this section and shall not be  
37 considered to have received that relief for purposes of  
38 paragraph ~~(7)~~ (6) of subdivision (b), if a written notice  
39 of rescission is delivered to the office of the assessor in

1 which the original claim was filed and all of the following  
2 have occurred:

3 (1) The notice is signed by the original filing claimant  
4 or claimants.

5 (2) The notice is delivered to the office of the assessor  
6 before the date that the county first issues, as a result of  
7 relief granted under this section, a refund check for  
8 property taxes imposed upon the replacement dwelling.  
9 If granting relief will not result in a refund of property  
10 taxes, then the notice shall be delivered before payment  
11 is first made of any property taxes, or any portion thereof,  
12 imposed upon the replacement dwelling consistent with  
13 relief granted under this section. If payment of the taxes  
14 is not made, then notice shall be delivered before the first  
15 date that those property taxes, or any portion thereof,  
16 imposed upon the replacement dwelling, consistent with  
17 relief granted under this section, are delinquent.

18 (3) The notice is accompanied by the payment of a fee  
19 as the assessor may require, provided that the fee shall not  
20 exceed an amount reasonably related to the estimated  
21 cost of processing a rescission claim, including both direct  
22 costs and developmental and indirect costs, such as costs  
23 for overhead, personnel, supplies, materials, office space,  
24 and computers.

25 (j) (1) With respect to the transfer of *the* base year  
26 value of *an* original ~~properties~~ *property* to a replacement  
27 ~~dwellings~~ *dwelling* located in the same county, this  
28 section, except as provided in paragraph (3) or (4), shall  
29 apply to any replacement dwelling that is purchased or  
30 newly constructed on or after November 6, 1986.

31 (2) With respect to the transfer of *the* base year value  
32 of *an* original ~~properties~~ *property* to a replacement  
33 ~~dwellings~~ *dwelling* located in a different ~~counties~~ *county*,  
34 except as provided in paragraph (4), this section shall  
35 apply to any replacement dwelling that is purchased or  
36 newly constructed on or after the date specified in  
37 accordance with subparagraph (E) of paragraph (2) of  
38 subdivision (a) in the ordinance of the county in which  
39 the replacement dwelling is located, but shall not apply

1 to any replacement dwelling which was purchased or  
2 newly constructed before November 9, 1988.

3 (3) With respect to the transfer of *the* base year value  
4 *of an original property to a replacement dwelling* by a  
5 severely and permanently disabled person, this section  
6 shall apply only to *a replacement dwellings dwelling* that  
7 ~~are~~ *is* purchased or newly constructed on or after June 6,  
8 1990.

9 (4) The amendments made to subdivision (e) by the  
10 act adding this paragraph shall apply only to replacement  
11 dwellings under Section 69 that are acquired or newly  
12 constructed on or after October 20, 1991, and shall apply  
13 commencing with the 1991–92 fiscal year.

14 (5) *With respect to the transfer of the base year value*  
15 *of an original property to a replacement dwelling located*  
16 *in another county where the county in which the*  
17 *replacement dwelling is located has not adopted an*  
18 *ordinance authorizing an intercounty transfer of base*  
19 *year value, this section shall apply to any replacement*  
20 *dwelling that is purchased or newly constructed on or*  
21 *after November 4, 1998.*

22 (k) The amendments to this section made by the act  
23 adding this subdivision, by *Chapter 941 of the Statutes of*  
24 *1997*, and by the act ~~amending this section~~ adding  
25 *paragraph (5) to subdivision (j) during the 1998 portion*  
26 *of the 1997–98 Regular Session of the Legislature*, shall  
27 become operative on January 1, 1999.

28 SEC. 2. This act shall become operative only if  
29 Assembly Constitutional Amendment \_\_\_\_ of the  
30 1997–98 Regular Session of the Legislature is adopted and  
31 approved by the people of the State of California.

32 SEC. 3. Notwithstanding Section 17610 of the  
33 Government Code, if the Commission on State Mandates  
34 determines that this act contains costs mandated by the  
35 state, reimbursement to local agencies and school  
36 districts for those costs shall be made pursuant to Part 7  
37 (commencing with Section 17500) of Division 4 of Title  
38 2 of the Government Code. If the statewide cost of the  
39 claim for reimbursement does not exceed one million



1 dollars (\$1,000,000), reimbursement shall be made from  
2 the State Mandates Claims Fund.  
3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

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